

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23428 of 2007

Dated: 12.11.2007

Between:

Karne Vasanth

And others

...Petitioners

AND

The District Collector,

Adilabad,

And another.

... Respondents

Counsel for the petitioners : Sri V.Venkateshwar

Counsel for the respondents: A.G.P. for Land Acquisition.

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23428 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to invalidate notification dated 4.5.2007 issued under Section 4(1) of the Land Acquisition Act 1894 (for short "the Act") and declaration dated 29.5.2007 issued under Section 6 of the Act.

The petitioners claim to be small farmers. Their lands are sought to be acquired under the aforementioned notification and declaration, for the purpose of excavation of left flank main canal of Sri Komaram Bheem project at Ada village. The main grievance of the petitioners is that the purpose for which the acquisition is made is not such emergent in nature that dispensing with of enquiry under Section 5A of the Act was necessary.

No counter affidavit has been filed. However, learned Assistant Government Pleader for Land Acquisition, on instructions, made his submissions. Learned counsel for the petitioners stated that though notification under Section 4(1) of the Act was issued on 4.5.2007 and urgency clause under Section 17(4) of the Act was invoked, so far possession has not been taken. Learned counsel further submitted that paper publications were made on 11.6.2007 which could be taken as public notice and that since the respondents failed to take

possession as envisaged under Section 17(5)(a) of the Act within three months from the date of the public notice, respondents are bound to hold enquiry under Section 5A of the Act by virtue of Section 17(5)(b) of the Act. The learned Assistant Government Pleader did not dispute this claim of the petitioners. Since the respondents have failed to take possession within three months from the date of publication of notice, respondents are left with no option other than holding an enquiry under Section 5A of the Act in view of Section 17(5)(b) of the Act.

In view of the same, declaration dated 29.5.2007 issued under Section 6 of the Act is quashed. The respondents are directed to hold enquiry under Section 5A of the Act before proceeding further. The petitioners shall not be dispossessed pending enquiry.

The writ petition is accordingly allowed to the extent indicated above.

C.V.NAGARJUNA REDDY,J

Date:12.11.2007

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